



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

September 13, 2011

CBCA 2431-TRAV

In the Matter of SCOTT M. TORRICE

Scott M. Torrice, San Antonio, TX, Claimant.

Sheila Melton, Director, Travel Functional Area, Standards and Compliance, Defense Finance and Accounting Service, Indianapolis, IN, appearing for Department of Defense.

KULLBERG, Board Judge.

The Department of Defense (DoD) has requested an advance decision from this Board under 31 U.S.C. § 3529 (2006). This Board has been asked to advise whether the claimant, Mr. Scott M. Torrice, should be reimbursed for the cost of lodging, which was booked through an online service, while he performed temporary duty (TDY). Reimbursement for lodging is appropriate in this case for the reasons stated below.

Background

Mr. Torrice, a first-time government employee, was appointed by DoD to a position in San Antonio, Texas. Shortly after his appointment, he went on TDY to Washington, D.C., for in-processing during the period from January 17 to January 22, 2011. Before he commenced his employment with the Government, Mr. Torrice used an online service to reserve a hotel room for his TDY. He received a confirmation notice from the online service that showed a total charge of \$729.57 for his five-night stay while on TDY. At the end of his hotel stay, Mr. Torrice received a bill from the hotel that showed the daily cost of eleven dollars for parking, but the cost for his room was shown as zero on the bill. Subsequently,

Mr. Torrice received a credit card bill with a charge of \$729.57 from the online service for his hotel room.

On January 25, 2011, Mr. Torrice submitted his claim for TDY expenses, which included his lodging expense of \$729.57. DoD informed Mr. Torrice in an April 13, 2011, memorandum that it could find no authorization for reimbursing his lodging expense and stated the following:

The Joint Travel Regulations (JTR) Chapter 4, par. C4555-B5, states “Despite any savings realized through online booking agents, subject to Service requirements the CTO [commercial travel office] should be used for lodging arrangements or the traveler should reserve a room directly with the hotel/chain (including the hotel’s online website). Lodging reimbursement is not authorized for hotel lodging obtained through online booking agents unless an itemized receipt from the hotel is provided.” Also, as stated in the JTR, Chapter 1, par. C1310-B, “A traveler must not submit a ‘lost receipt’ statement to substitute for an online booking hotel receipt.”

The memorandum also advised Mr. Torrice that he could request that DoD reconsider its decision.

On May 9, 2011, Mr. Torrice submitted a memorandum, with supporting documents, to DoD requesting that an exception to policy be made that would allow reimbursement for his lodging. In a separate statement attached to his memorandum, he explained that the use of an online service to book his hotel room resulted in a zero charge on the hotel receipt because the online service had already paid the hotel for the room, and the hotel receipt, consequently, did not show a cost for the room. He also provided a breakdown of the cost for his lodging from the online service that showed a charge of \$129 for four nights, January 17-20, 2011, a charge of \$115 for one night, January 21, 2011, and a daily charge of \$19.71 for taxes and fees. Mr. Torrice also provided DoD with a credit card statement that showed the charge of \$729.57 from the online service for booking his hotel room.¹ DoD subsequently requested review by this Board in its memorandum dated May 17, 2011, which

¹ Mr. Torrice’s itemized hotel charges actually totaled \$729.55, not \$729.57, which was the amount charged by the online service. Mr. Torrice acknowledges the two cents discrepancy, but the record provides no explanation for the difference.

reiterated its position that under JTR C4555-B.5 and C1310-B it lacked authorization to reimburse Mr. Torrice for his lodging expenses.

Discussion

The issue before the Board is whether a DoD traveler who books a hotel room through an online service must provide an itemized hotel receipt as required under JTR C4555-B.5 in order to be reimbursed for his or her lodging expenses or whether reimbursement can be allowed on the basis of other documentary evidence. Statute provides the following with regard to reimbursement of expenses incurred by a government employee of while on official travel:

Under regulations prescribed pursuant to section 5707 of this title, an employee, when traveling on official business away from the employee's designated post of duty, or away from the employee's home or regular place of business (if the employee is described in section 5703 of this title), is entitled to any one of the following:

(A) a per diem allowance at a rate not to exceed that established by the Administrator of General Services for travel within the continental United States, and by the President or his designee for travel outside the continental United States;

(B) reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Administrator for travel within the continental United States or an amount established by the President or his designee for travel outside the continental United States; or

(C) a combination of payments described in subparagraphs (A) and (B) of this paragraph.

5 U.S.C. § 5702(a)(1). In light of that statutory provision, this Board has recognized that “[a] government traveler on TDY is entitled to reimbursement for his or her lodging costs as a matter of statutory right.” *Mark J. Lumer*, CBCA 2169-TRAV, 11-2 BCA ¶ 34,780, at 171,165.

The Federal Travel Regulation (FTR), which also applies to Mr. Torrice, provides that when travel “is more than 12 hours and overnight lodging is required [the employee is]

reimbursed [for his or her] actual lodging cost not to exceed the maximum lodging rate for the TDY location or stopover point.” 41 CFR 301-11.100 (2010) (FTR 301-11.100). The FTR provides the following with regard to proving the amount of a claim:

What must I provide with my travel claim?

You must provide:

- (a) Evidence of your necessary travel authorizations including any necessary special authorizations;
- (b) Receipts for:
 - (1) Any lodging expense, except when you are authorized a fixed reduced per diem allowance;
 - (2) Any other expense costing over \$75. If it is impracticable to furnish receipts in any instance as required by this subtitle, the failure to do so must be fully explained on the travel voucher. Mere inconvenience in the matter of taking receipts will not be considered.

Id. 301-52.4. The FTR also provides the following:

May my agency disallow payment of a claimed item?

Yes, if you do not:

- (a) Provide proper itemization of an expense;
- (b) Provide receipt or other documentation required to support your claim; and
- (c) Claim an expense which is not authorized.

Id. 301-52.8.

In this case, DoD, citing JTR C4555-B.5 and C1310-B, contends that it lacks authorization to reimburse Mr. Torrice for his lodging. In an August 10, 2011, memorandum

which was in response to an inquiry from the Board regarding JTR C4555-B.5, the Per Diem, Travel and Transportation Allowance Committee (PDT&TAC) stated the following:

The JTR, par. C4555-B5 states “Lodging reimbursement is not authorized for hotel lodging obtained through online booking agents unless an itemized receipt from the hotel is provided.” This provision was added because the receipt from the online organization is not a lodging receipt. Use of online hotel booking engines results in not having a lodging receipt because the hotel ‘arrangement’ is between the hotel and the online booking agent. There is no way to know what was purchased (room charge only or meals, movies, rental car, etc.). Some of the online hotel offers provide considerably more than just the room for the price. Online booking agents typically just provide ‘the bottom line’ number and not a breakdown, and then the hotel only provides a zero balance receipt. There is no breakdown of what’s paid for lodging, tax, etc., so there is no itemized receipt from the hotel either.

The PDT&TAC memorandum suggests that JTR C4555-B.5 was drafted for the purpose of precluding reimbursement for lodging when a traveler can only produce a “bottom line” total charged by an online service that booked a hotel room. While there may be cases in which a traveler cannot produce any evidence of lodging expenses other than such a “bottom line” total and the production of an itemized hotel receipt is necessary to prove lodging expenses, this case does not present that situation.

In this case, Mr. Torrice has provided documentary evidence of his itemized hotel costs and not just a “bottom line” amount, but DoD’s reading of JTR C4555-B.5 would, in effect, preclude reimbursement for his lodging because he lacks an itemized hotel receipt that shows his lodging expenses. This Board has recognized that under the FTR, a traveler can prove his or her lodging expenses by other means when it is impractical to obtain a receipt. *Lumer*, 11-2 BCA at 171,165 (citing FTR 301-7.9(b)(2)). It is well established that when a JTR provision conflicts with the FTR, the FTR will be followed because the JTR “does not have the force of law and cannot alter an FTR determination.” *Frank J. Salber*, GSBCA 16836-RELO, 06-2 BCA ¶ 33,330, at 165,286. Mr. Torrice has provided an itemized receipt from the hotel that confirms his stay there on the days in question, but it lacks information as to the cost of his room. Instead, he has also provided a statement from the online service, which booked his hotel room, that shows the daily rate for his room in addition to a separate rate for taxes and fees. DoD’s reliance on JTR C4555-B.5 in this matter unreasonably results in denying Mr. Torrice reimbursement for his lodging only because the evidence for his

itemized lodging expenses comes from the online service rather than the hotel. Such a result would be contrary to the FTR as unduly limiting the ability of Mr. Torrice to have all documentary evidence in addition to his hotel receipt considered for purposes of determining reimbursement.

The record shows that Mr. Torrice should be reimbursed for the nightly rates charged for his hotel room. He was charged \$129 for four nights and \$115 for one night, and he should be reimbursed for those amounts. The itemized statement also shows a daily charge of \$19.71 for taxes and fees. Taxes are reimbursable, but fees are not. FTR 301-11.27. The record, however, does not show how much of that daily rate of \$19.71 consists of taxes and how much of the balance consists of fees. The Board, consequently, cannot determine what part of that daily rate of \$19.71 is reimbursable without information as to what types of taxes and fees comprise that amount. Resolving that issue will require additional information from Mr. Torrice, who should provide it to DoD for a determination as to the amount of reimbursement.

H. CHUCK KULLBERG
Board Judge